

LETTER OPINION
2000-L-54

April 10, 2000

Honorable Ben Tollefson
State Representative
500 24th Street NW
Minot, ND 58703-1864

Dear Representative Tollefson:

Thank you for your letter requesting clarification of the protection afforded by N.D.C.C. § 36-21.1-02(5) to kennel operators for animals abandoned at the kennel. You also asked how the law is enforced.

As you noted in your letter, N.D.C.C. § 36-21.1-02 was amended in 1999 to require a person to "reclaim an animal within forty-eight hours of the agreed upon time for termination of a boarding contract and pay all charges for boarding the animal." 1999 N.D. Sess. Laws ch. 319, § 1. N.D.C.C. § 36-21.1-11 makes a violation of N.D.C.C. § 36-21.1-02(5) a class A misdemeanor, which is punishable by a maximum penalty of one year's imprisonment, a fine of two thousand dollars, or both. N.D.C.C. § 12.1-32-01.

A person convicted of violating N.D.C.C. § 36-21.1-02(5) may be sentenced to pay "[r]estitution for damages resulting from the commission of the offense." N.D.C.C. § 12.1-32-02(1)(e). A judge may require the person to pay the cost of boarding the abandoned animal as restitution. Criminal prosecution of the person abandoning an animal at a kennel and possible restitution are the only protection afforded by N.D.C.C. § 36-21.1-02(5) to kennel operators. If the kennel operator believes the law has been violated, he may report the violation to the county state's attorney, the sheriff, or the police.

Beyond the criminal remedy provided by N.D.C.C. § 36-21.1-02(5), the kennel operator may be able to pursue a civil action against the person abandoning the animal to collect the boarding fees. The kennel operator may be able to pursue the civil claim in small claims court. See N.D.C.C. ch. 27-08.1.

Sincerely,

Heidi Heitkamp
Attorney General

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